

TESTIMONY OF: PHILLIP J. HOLMAN, ESQ.,
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DADS AND MOMS PAC

In Opposition To

SENATE SUBSTITUTE FOR SENATE BILL NO. 557 (S-2) , 558-560

Before:

THE HOUSE JUDICIARY COMMITTEE
521 House Office Building, Lansing, MI
Thursday, 3/22/2012, 10:30 AM

Oh, what a tangled web we weave

When first we practise to deceive!!

A. Introduction

It was recently announced that for the first time in history, the majority of children born to mothers under the age of thirty (30), were born out of wedlock.² Forty Percent (40%) of Michigan's children were born to unmarried mothers in 2008. The rate of births to unwed mothers varies with ethnicity and reaches a high of 80% among African American women. *Michigan Mothers and Their Babies: Overview and Trends 2000-2009*, July, 2011 (Kids Count in Michigan). Consequently, the Bills under consideration today will govern the parent-child relations of a growing majority of Michigan's children, frequently to parents who lack an adequate education or the financial resources for an attorney.

The Bills primarily address three situations in which the legal paternity rights and responsibilities between a man incorrectly identified as a father and a child may be terminated, under the following circumstances:

- A. Where paternity is established by an acknowledgment of paternity;
- B. Where paternity is established in a paternity order and the father did not appear; and
- C. Where paternity is established by marriage.

The Legislative Analysis for Substitute Senate Bill 557-560 (S-2) (as passed by the Senate) states the purpose of this legislation in part as follows:

"In short, the bills would bring fairness, compassion, and modernity to the law, while ensuring that the child's best interests were the primary consideration."³

It is difficult to perceive fairness or compassion in the proposed legislation.

Does it allow more individuals who are told that beyond any doubt they are the father and so they should sign the acknowledgment of paternity to correct the record?

Answer: No.

Does it assure that more children will have their fathers correctly identified?

Answer: No

Does it allow more individuals who are never notified of a paternity proceeding and are incorrectly identified as the father from a default judgment to correct the record?

Answer: Maybe

Does it use the child's best interest as the primary consideration for the proposed legislation?

Answer: Yes, if the child's best interests are defined as collecting child support for the child's mother from any man selected by the mother. No, if it is defined as assuring that every child has a loving and secure relationship with an accurately identified biological father.

However, fairness and the best interest of the child will be the guiding principle of this testimony.

This testimony assumes that correctly identifying the biological father is almost always in the child's best interest. While this seems inherent to the author, it has been pointed out that others

¹ Scott, Walter. *Marmion: A Tale of Flodden Field*, Canto VI, XVII

² For Women Under 30, Most Births Occur Outside Marriage, New York Times, February 17, 2012

³ PATERNITY REVOCATION/ESTABLISHMENT S.B. 557 (S-2) & 558-560: ANALYSIS AS PASSED BY THE SENATE. Legislative Analyst: Suzanne Lowe

do not share this conclusion. Perhaps the difference is that the author views fathers as more than wallets and believes that accurate paternity identification is a critical condition to assuage the distrust inherent between parents who have a child born out of wedlock. The author views father absence in the context of the following demographic data:

Children from fatherless homes account for:

- 63% of youth suicides 1
- 70% of juveniles in state-operated institutions come from fatherless homes 3
- 71% of pregnant teenagers 2
- 71% of all high school dropouts 6
- 75% of all adolescent patients in chemical abuse centers 7
- 80% of rapists motivated with displaced anger 5
- 85% of all children that exhibit behavioral disorders 4
- 85% of all youths sitting in prisons 8
- 90% of all homeless and runaway children

You might think a "loving mother" would want to protect her child and keep him from becoming one of the above statistics. Sadly, and often without realizing the adverse consequences, mothers expose children to the following risks:

- Angry mothers sabotage a father's efforts to visit their children 9
- Few children are satisfied with the amount of contact with their fathers 10
- The mother was the greatest obstacle to having more frequent contact with the children 11
- 37.9% of fathers have no access/visitation rights 12
- 40% of mothers reported that they had interfered with the non-custodial father's visitation on at least one occasion, to punish the ex-spouse. 13
- 50% of mothers "see no value in the father's continued contact with his children...." 14
- 70% of fathers felt that they had too little time with their children 15
- 77% of non-custodial fathers are NOT able to "visit" their children, as ordered by the court, as a result of visitation interference by the mother. 16
- 89% of mothers don't value their husband's input when it comes to handling problems with their kids 17
- Non-compliance with court ordered visitation is 300% more common than non-compliance with court ordered child support and impacts the children of divorce even more. 18

1 US Dept. of Health & Human Services, Bureau of the Census

2 US Dept. of Health & Human Services

3 U.S. Dept. of Justice, Special Report, Sept 1988

4 Center for Disease Control

5 Criminal Justice & Behavior, Vol. 14, p. 403-26, 1978

6 National Principals Association Report on the State of High Schools

7 Rainbows for all God's Children)

8 Fulton Co. Georgia jail populations, Texas Dept. of Corrections 1992

9 Ahrons and Miller, Am. Journal of Orthopsychiatry, Vol. 63, p. 442, July 1993

10 Visitation and the Noncustodial Father, Koch & Lowery, Journal of Divorce and Remarriage, Vol. 8, No. 2, p. 50, Winter 1984

11 Increasing our understanding of fathers who have infrequent contact with their children, James Dudley, Family Relations, Vol. 4, p. 281, July 1991

12 p.6, col.II, para. 6, lines 4 & 5, Census Bureau P-60, #173, Sept 1991

13 p. 449, col. II, lines 3-6, (citing Fulton) Frequency of visitation by Divorced Fathers; Differences in Reports by Fathers and Mothers. Sanford Braver et al, Am. J. of Orthopsychiatry, 1991

14 Surviving the Breakup, Joan Kelly & Judith Wallerstein, p. 125

15 Visitation and the Noncustodial Father, Mary Ann Kock & Carol Lowery, Journal of Divorce, Vol. 8, No. 2, p. 54, Winter 1984

16 Visitation Interference - A National Study" by Ms. J Annette Vanini, M.S.W. and Edward Nichols, M.S.W. Originally published Sept. 1992

17 EDK Associates survey of 500 women for Redbook Magazine. Redbook, November 1994, p. 36

18 Visitation Interference - A National Study" by Ms. J Annette Vanini, M.S.W. and Edward Nichols, M.S.W. Originally published Sept. 1992

A. Acknowledgment of Paternity

A-1. Background

The current policy of the State of Michigan is knowingly designed to place putative fathers at an overwhelming disadvantage. Certainly, the mother is in the best position to know whether there is any doubt about the identity of the child's biological father. The men involved are generally confronted unexpectedly in the hospital by the hospital staff and asked to sign an acknowledgment of paternity. As evidenced by their presence at the hospital, when the child is born, they want to be involved in the child's life and often desire to continue a relationship with the child's mother. Such fathers are placed in an overwhelmingly unfair position. If he refuses to sign, stating he wants a paternity test, he destroys all possibility of an amicable relationship with the mother, much less a continuing relationship or marriage. The mother will certainly cut him off from any contact with the child. Knowing that fathers are extremely vulnerable, it has become the policy of our government to take maximum advantage of the men's weakness in such situations. If even a minimal level of fairness was required, the form would require the mother to represent that she knows of no other men who may be the child's father. Leaving any such representation off of the form and imposing no consequences to mothers who commit such paternity fraud, encourages mothers to select the father of her choice among the available alternatives. Nationwide, DNA tests show mothers identify the wrong man approximately 30% of the time.⁴ I am advised that the Wayne County Friend of the Court's percentage on tests that exclude the named father is significantly higher, but this Committee is invited (and requested) to make their own inquiries from the representatives of the Friend of the Court. Given such uneven positions, for the law to aid and reward the mother in perpetrating a fraud on the putative father is grossly unconscionable. Amazingly, most lawyers, judges and legislators agree, and impose these consequences anyway. Simply stated, this provision perpetrates overwhelming institutionalized discrimination and gender bias.

A-2. Current Law

In an effort to be fair and to exhibit some compassion for the millions of fathers misled into signing an acknowledgment of paternity for when they are not the father, in 1996 the Acknowledgement of Parentage Act was revised to add MCL 722.1011 effective which in limited situations, allows the interested parties to file a claim to revoke the acknowledgment.

A-3. Proposed Legislation

The proposed legislation:

- a. Requires men upon whom the paternity fraud was perpetrated to file to have the acknowledgment set aside before the child reaches three years old;
- b. Similarly, the proposed legislation may cut off the biological father's right to contest the claim someone else is the father, before he ever realizes he is the father;
- c. It creates a long laundry lists of excuses the Courts (presumptively, at the mother's request) could use to refuse to set aside the acknowledgment in Section (13) (4) of the proposed Act, including "the harm that might result to the child," which would seem to include the mother's loss of the child support payments resulting from the mother's paternity fraud.

⁴ For example, consider the following: "Of the cases reported 90,227 were reported as exclusions, or a rate of 29.06% exclusions." Annual Report Summary For Testing In 2001, American Association of Blood Banks, Prepared by the Parentage Testing Program Unit, October 2002. See also "However, in situations where disputed parentage was the reason for the paternity testing (which "inevitably overestimates population level") there were higher levels; an incidence of 17% to 33% (median of 26.9%). Most at risk were those born to younger parents, to unmarried couples and those of lower socio-economic status, or from certain cultural groups. Bellis MA, Hughes K, Hughes S, Ashton JR (September 2005). *Measuring paternal discrepancy and its public health consequences*, *J Epidemiol Community Health* 59 (9): 749-54.

Rather than bring fairness and compassion, these provisions:

- a. Seek to protect an income stream (rather than impose sanctions on) mothers who perpetrated the paternity fraud in the first instance, to the detriment of the child, the falsely accused father and the biological father;
- b. Punish men who desire to be responsible and a part of their child's life and show up at hospitals to support the mother. Michigan takes advantage of the vulnerable situation such men are in and directs hospitals to shove an acknowledgment of paternity in their hands in front of the mother. These provisions make it difficult or impossible to revoke such acknowledgments after the child turns three years old; and
- c. Impose no consequences to mothers who perpetrate paternity fraud on fathers, boyfriends and innocent children. Such consequences would add an element of fairness to an overwhelmingly unfair process currently, made far worse by this proposed legislation.

A-4. Position on Pending Legislation

Dads and Moms PAC oppose the proposed changes which severely reduce the relief available currently to victims of paternity fraud who are fraudulently induced to sign an acknowledgment of paternity.

A-5. Proposed Changes to Pending Legislation

Delete all changes in the proposed legislation that limit the time period or allow the judge the discretion to force victims of paternity fraud to continue paying the money to the perpetrator of the fraud. Continue to allow the true biological fathers to seek a relationship with their children, even if they do not learn of the paternity fraud before the child is three years old.

Men who are victimized by paternity fraud into believing they are the father should be able to terminate their child support obligation to the mother and continue to be an active part of the child's life by substantial parenting time and sole or joint custody, unless the biological father desires parenting time. In the latter case, the interests and desires of the victims of the paternity fraud, the child and the two men should be given priority.

A-6. New Legislation that should be considered:

a. Grant all children who are born out of wedlock the absolute right to have their biological father identified promptly after their birth by DNA testing. This would reflect the true best interest of the child. Men who are not the biological fathers are not going to pay child support except when forced to do so by incarceration after incarceration, at a cost that exceeds the amount collected. If this committee truly wants to bring "modernity to the law" it should recognize that DNA testing kits are now readily available and are an unintrusive process that simply involves swabbing the child and the putative father's mouths and mailing in the swabs. Inexpensive testing kits are readily available at area drug stores; the author readily located one at CVS marketed by Identigene priced at only \$33.79. Consequently, the ability to prevent parties from discovering whether the man is actually the father, is no longer within the court's power.

b. Change the Acknowledgment of Paternity Form to:

- i) Require the mother to represent that there is only one man who may conceivably be the father of the child; and

ii) Allow the parties to elect father custody or joint physical custody. The latter option is the most appropriate custodial arrangement when the parties live together. Currently the only option is sole custody by the mother.

B. Default Judgments of Paternity

B-1. Background

The Bill uses the phrase “an affiliated father has failed to participate in the court proceedings that determined filiation” means fathers who were determined to be the father because they failed to appear in court. Importantly, no actual notice of the hearing is required to be given to the men involved. Numerous men are served by alternate service, which often is as inadequate as sending first class mail (not even registered or certified mail) to the address stated by the mother as the putative father’s last known address. The Wayne County Friend of the Court’s web page formerly cautioned that over eighty percent (80%) of their paternity orders were entered by default. No doubt the vast majority of the men involved were totally unaware they were being sued. We would not allow this method of sewer service in any other context. It is allowed here because there are few individuals or organizations willing to stand up and ask for even a modicum of due process for putative fathers.

B-2. Current Law

Setting aside a default judgment is governed by MCR 2.603(D). Where there is no personal service, which is the case for the vast majority of paternity cases, default judgments may be set aside fairly easily for one year, as follows:

(D) Setting Aside Default or Default Judgment.

(1) A motion to set aside a default or a default judgment, except when grounded on lack of jurisdiction over the defendant, shall be granted only if good cause is shown and an affidavit of facts showing a meritorious defense is filed.

In a paternity case, the lack of actual notice is generally found to satisfy the “good cause” requirement and a “not being the father” is a meritorious defense.

MCR 2.612 (B) provides: Defendant Not Personally Notified. A defendant over whom personal jurisdiction was necessary and acquired, but who did not in fact have knowledge of the pendency of the action, may enter an appearance within 1 year after final judgment, and if the defendant shows reason justifying relief from the judgment and innocent third persons will not be personal jurisdiction was necessary, on payment of costs or on conditions the court deems just.

The above referenced court rules impose hurdles that make it more difficult to set aside a default judgment if a motion is not filed within one year after the judgment is entered.

B-3. Proposed Legislation

The proposed legislation:

Page 4, Lines 10-14, Sec. 9. (2) provides:

A motion under this section shall be filed within 3 years after the child’s birth or within 1 year after the date of the order of filiation, whichever is later.

Page 4, lines 10-14, Sec. 9. (2) requires the Court to impose costs and attorney fees on the individual who filed the motion if the order of filiation is not set aside.

B-4. Position on Pending Legislation

Dads and Moms PAC support the proposed changes which increase the period of time to set aside a default judge of paternity. It should thereby benefit the victims of paternity fraud who are not notified of a pending paternity hearing. It will be in the best interest of children if it results in a more accurate determination of paternity.

B-5. Proposed Changes to Pending Legislation

The correction of a paternity order should be considered the absolute right of every falsely identified child and should almost always be available to the biological father as well as the man incorrectly identified as the father. If one is truly concerned about the detriment suffered by the child who has bonded emotionally with the father figure, fairness would indicate the man involved should be allowed to continue the relationship with the child, but the mother who perpetrated the fraud should not be entitled to profit by continued receipt of child support. The legislative focus on child support shows the true value placed on the victim of the paternity fraud.

There are numerous reasons why a father may fail to attend a paternity hearing, including failure to receive actual notice. It is hard to imagine why a three year limitations period would be appropriate, much less in the best interest of the minor child. There is no policy reason being upheld, such as the traditional reason given not to allow a man to file a paternity action against a married woman...the desire not to disturb a happy intact family. If any policy reason can be gleaned from the pending legislation, it would seem to be that Mothers should never lose child support, even if they have to lie and defraud a man who is not the father, to get it.

C. Children Born Out of Wedlock

C-1. Background

A child is considered born out of wedlock if s/he was born to a woman who was not married at the time of conception or at the time of the child's birth. Under the ancient precedent known as Lord Mansfield's Rule, if a child was conceived during a marriage, neither the mother nor the father could present evidence that the child was not legitimate. Today, there is little concern for the sanctity of marriage, but the protection of the best interest of mothers is at an all time high.

C-2. Current Law

Mothers are insulated from claims by the biological fathers of children who are not their husband for as long as they remain married.

C-3. Proposed Legislation

Section 11 of the Act allows Courts to determine a child is born out of wedlock for purposes of establishing the child's paternity. The Bill is extremely convoluted, creating a Swiss cheese barrier, apparently designed to prevent all unwelcome claims filed by men and yet allow the mother or the State to pursue the man of their choice for child support. The disparate treatment of mothers and fathers based on gender would seem to violate constitutional protections.

Where the Mother files the action, there are two alternative tracks, each of which contain provisions that seem to focus primarily on child support.

C-3(a). Action by the Mother (p. 4-5)

C-3(a)(i). Under the first track, all of the following must apply:

- a. The mother must name the father (sadly, this often is not possible);
- b. The paternal relationship between the child and the biological father must have been an openly acknowledged relationship;
- c. “The action is filed within 3 years after the child’s birth...” ; and
- d. The child’s paternity will be established (sadly, this often is not possible).

Several anomalies exist which make no sense in this provision, as follows:

- a. The best interest of the child in this provision seems to be defined based solely on the mother’s ability to collect child support and her desire to collect it from someone other than her husband;
- b. Where the relationship between the father and child is openly acknowledged by all parties, there is no apparent reason to limit a parties’ ability to bring an action to the first three years of the child’s life?

C-3(a)(ii). Under the second track, all of the following must apply:

- a. The mother must name the father (sadly, this often is not possible);
- b. Either of the following apply:
 - i). The presumed father is not paying child support as ordered; or
 - ii). The child is less than three years old and the presumed father lives apart from the child; and
- c. The child’s paternity will be established (sadly, this often is not possible).

Several additional anomalies exist which make no sense in this provision, as follows:

- a. This provision leaves no doubt that the authors of this Bill are primarily concerned about collecting child support...if the relationship between the father and the child were concerned, the presumed father’s exercise of parenting time would be a factor;
- b. The mother is given *carte blanche* to terminate a presumed father’s relationship with the child if she simply elects not to live with him before the child turns three years old or thereafter if she succeeds in obtaining a child support obligation beyond his ability to pay due to loss of employment, etc. No concern is given to the emotional bonding between the child and the presumed father or the Mother’s culpability for falsely identifying the father when she knew another man was or might be the father.

C-3(b). Action by Presumed Father (i.e., the mother’s husband) (p. 5-6)

Where the presumed father files the action, the court may only make such determination if it is filed before the child turns three, or if raised in a divorce proceeding.

If a husband is allowed to raise the paternity of a ten year old child in a divorce proceeding, why should he not be allowed to raise the issue when he finds out years after his wife divorced him and refused to allow him any access to his child? Clearly this does not reflect a concern for the impact on the child, who be impacted far more by the loss of the relationship with his presumed father more after ten years of marriage than by loss of the typical relationship with a noncustodial parent, relegated to a few overnights a month.

Often the mother interferes in the relationship between the child and her former husband, almost always telling the child he is not the child's "real father," so there is seldom a personal relationship between the father and the child that can be salvaged. The father-child relationship should be allowed to continue, but the child support obligation to the mother terminated. The mother should be held responsible for her behavior and able to enforce a child support obligation only against the biological father.

C-3(c). Action by the Alleged Father (i.e., the alleged biological father)(p. 6-7)

Where the Alleged Father files the action, there are three convoluted alternative tracks, each of which contains provisions, which make little sense, unless one realizes that the Bill is designed with a primary focus on protecting the mother's "right" to collect child support from her preferred payer, not the true best interest of the child.

C-3(c)(i). Under the first track, all of the following must apply:

- a. The father did not know the mother was married when the child was conceived;
- b. The paternal relationship between the child and the biological father must have been an openly acknowledged relationship;
- c. "The action is filed within 3 years after the child's birth..."; and
- d. The child's paternity will be established if the child is determined to be born out of wedlock.

This Bill punishes fathers for knowingly committing adultery. No similar consequence is imposed on women (who almost always know they are married when the child is conceived). If a man conceives a child with a woman he knows is married, even if she has been separated for years, a divorced has been filed, etc., he is banned from ever filing a paternity action. This prohibition applies even if the mother gets divorced; her former husband has no relationship with the child and does not support the child financially. However, in the same circumstances, the adulterous mother would be allowed to file a claim before the child turns three years old if she is not living with her husband and thereafter, if he is not paying adequate support. It is hard to imagine that this could withstand constitutional challenge.

What the drafters perceived the public policy reasons for the second requirements is difficult to imagine, except that it gives the mother power to prevent the father from being able to assert his paternity by refusing to openly acknowledge the father's paternity of the child.

It is difficult to understand why the State would want to prohibiting publicly acknowledged fathers from filing a paternity action after the child turns three years old. All parties, including the child, are by definition, aware of who is the biological father. The author can only conclude that the State is willing to support mothers who decide after the child turns three years old that either: a).they prefer to collect child support from their ex-husband, instead of the child's father; or b) do not want to allow the biological father to continue his relationship with the child. The ex-husband may have a greater income or simply be less likely to bother her with inconvenient claims for that pesky parenting time fathers often believe is important. Even worse, he might have the audacity to tell the courts she is a drug addict and neglects the child so he can ask for custody. He might even succeed and cut off her welfare payments.

Since the Alleged Father by definition is seeking a determination of paternity, the fourth requirement appears superfluous, other than for a desire to mislead the reader by appearing to be evenhanded and provide a similar rule for fathers and mothers.

C-3(c)(ii). Under the second track, all of the following must apply:

- a. The father did not know the mother was married when the child was conceived;
- b. Either of the following apply:
 - i). The presumed father is not paying child support as ordered; or
 - ii). The child is less than three years old and the presumed father lives apart from the child; and
- c. The child's paternity will be established if the child is determined to be born out of wedlock.

This provision substitutes the "failure of the presumed father (e.g., ex-husband) to pay support" for the "openly acknowledged by everyone as the father" in the prior provision. The same penalty is imposed on the father for knowingly committing adultery.

C-3(c)(iii). Under the third track, all of the following must apply:

- a. The mother was not married when the child was conceived; and
- b. The action is filed before the child is three years old.

In this alternative, if the mother was not married when the child was conceived, the action must be brought before the child is three years old. This eliminates the biological father's right under current law to bring an action once there is no longer a marriage that the law presumes will be adversely impacted by the biological father's claim. In many cases, the mother and father are living together and do not separate until after the child turns three. This provision would allow the mother to prevent the father from filing a paternity suit with no conceivable concern for the best interest of the child.

C-3(d). Action by the Department of Human Services p. 7-8

Where the child has a presumed father and is being supported by public assistance, the Department of Human Services may file an action if both of the following apply:

- a. Either of the following apply:
 - i). The presumed father is not paying child support as ordered; or
 - ii). The child is less than three years old and the presumed father lives apart from the child; and
- b. The child's paternity will be established if the child is determined to be born out of wedlock.

Thus, for the first three years, the Department of Human Services is given *carte blanche* to file an action, regardless of any public policy reason that may exist that would suggest such an action would be detrimental to the child. After the child is three years old, the Department of Human Services is given *carte blanche* if they are not being reimbursed for their welfare payments in whole or part by the presumed father.

C-4. Position on Pending Legislation Regarding Children Born In Wedlock

Dads and Moms PAC oppose the legislation as it is presently written

D. Miscellaneous Provisions

D-1. Costs and Attorney Fees

Page 4, lines 10-14, Sec. 9. (2) requires the Court to impose costs and attorney fees on the individual who filed the motion if the order of filiation is not set aside. This might be warranted where the putative father received actual notice, otherwise not. Moreover, this legislation should be more even handed and either:

- a. Impose costs and attorney fees on the Mother if the falsely accused putative father prevails;
- b. Allow the court to award costs on any party; or
- c. Eliminate the provision. This section appears unnecessary in light of Section 13 (11) on p. 11 which authorizes the Court to require a nonprevailing party to pay costs and attorney fees.

D-2 Termination of Adoptions (p. 11)

Section 13 (8) provides that the Act does not provide a basis for termination of an adoption. Importantly, the proposed Act will provide the only basis for setting aside an acknowledgment of paternity. Consequently, it appears that the mother is encouraged to circumvent the biological father by filing a fraudulent acknowledgment of paternity naming her “friend” as the father and having her “friend” agree to the adoption. They could use this provision as an absolute shield from any attempt to set aside their acknowledgment of paternity. The proposed Act allows no exceptions, i.e., it does not allow the revocation of an acknowledgment of paternity if it would terminate an adoption, even if the acknowledgment is shown to be blatantly fraudulent and the biological father given no notice of the adoption proceeding.

D-3 Extension of Time for Filing Under the Act (p. 11-12)

The crux of the burden imposed on parties wishing to bring an action after a child is three years old is the “burden of proving by clear and convincing evidence that granting relief under this act will not be against the best interests of the child considering the equities of the case.” See Section 13 (13) of the Act, on p. 12.

One concern with this provision is the confusing use of the phrase “best interests of the child” which is a term in the Child Custody Act used to compare parents seeking custody. See MCL 722.23 “Best interests of the child” defined, Child Custody Act Of 1970, Act 91 of 1970.

Secondly, if this burden is applied as written in the Act, it is often an impossible task for fathers who have signed a paternity acknowledgment, to show by clear and convincing evidence that there will not be any detrimental impact to the child vis-à-vis child support.

Moreover, it is far from clear that this standard is the correct one to apply. For example, if a mother fraudulently induces a man to sign an acknowledgment of paternity, she should not be rewarded by being allowed to collect 14 more years of child support merely because her charade is not discovered before the child is three years old. The mother’s loss of child support from the falsely identified father if he is able to revoke his acknowledgment of paternity should not prevent him from being able to do so. Similarly, if a man is never actually notified of a paternity action and deemed to be a child’s father by default, he should not be prevented from proving he is not the father because the child would be worse off if he fails to continue to pay the child

support being improperly extorted by the mother. In such cases, the father is extremely unlikely to receive any assistance from the mother who perpetrated the paternity fraud in identifying the biological father. Consequently, he will be at an extreme disadvantage. By contrast, the mother is generally able to identify the father.

Overall Position on Pending Legislation

Dads and Moms PAC oppose the legislation as it is presently written. These Bills view fathers not as loving and nurturing parents who are critically necessary to the psychologically healthy maturation of a child, but rather wallets who are readily fungible. Sadly, these Bills continue a long history of disregarding and ignoring the untended consequences of legislation regarding families which have largely removed fathers from the American family, filled our prisons, exploded the rates of teenage and out of wedlock birth, high school drop outs, alcohol and substance abuse, etc., all adopted with the good intention of “ensuring that the child’s best interests were the primary consideration.” This legislation simply fails to recognize that accurate identification and legal recognition of a child’s biological father is almost always in the child’s best interest.

The Bills would help a handful of loving fathers who are now unable to file a paternity complaint, establish a warm and nurturing relationship with their children. However, it would entrap millions of fathers misled by the mother’s paternity fraud and/or the victim of knowing lack of due process and notice of the paternity proceeding. The legislative claim that the “bills would bring fairness, compassion, and modernity to the law, while ensuring that the child’s best interests were the primary consideration” is blatantly false. The best interests of the children of the State of Michigan are to have a warm, loving and supportive relationship with both of their parents, regardless of their marital status.